

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
                                  )  
                                  )  
Plaintiff,                )  
                                  )  
                                  )  
v.                            )       No. 3:04-CR-146  
                                  )       (PHILLIPS/GUYTON)  
MAURICE BLACK,            )  
                                  )  
                                  )  
Defendant.                )

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on July 29, 2005, for a scheduling conference and motion hearing. Assistant United States Attorney Steven H. Cook represented the government and appeared by telephone. Assistant Federal Defender Paula Voss was present for the Defendant Maurice Black, who was also present.

The parties made a joint, oral request to continue the August 17, 2005 trial date in order to allow the defendant time to have his pending suppression motion heard and resolved before trial. The defendant stated that he understood he would remain in custody pending his new trial date and that he had no objection to the requested continuance. The parties agreed that all of the time between the July 29 hearing and the new trial date would be fully excludable under the Speedy Trial Act. The Court finds the parties' joint, oral motion to continue the trial date to be well taken, and it is **GRANTED**. The Court finds that the ends of justice served by granting the motion outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). The

Court finds a continuance is required to allow the defendant the reasonable time necessary to prepare for trial, even taking into account counsels' due diligence. See 18 U.S.C. § 3161(h)(8)(B)(ii). The defendant presently has a suppression motion pending before the Court. See 18 U.S.C. § 3161(h)(1)(F). Once the Court holds a hearing on that motion, it will subsequently need time, not to exceed thirty days, to issue a Report and Recommendation on the motion. See 18 U.S.C. § 3161(h)(1)(J). Following this Court's report, the parties will need time to make objections, and the District Court will need time to rule upon those objections. See 18 U.S.C. § 3161(h)(1)(J). Thereafter, the parties will need time to prepare for trial in light of these rulings. The Court finds that a two-month continuance is reasonable under these circumstances. Finally, the Court notes that the defendant agreed to the continuance.

In light of these findings and its granting of the motion, the Court set a new trial date of **October 25, 2005**. The Court further finds that the period of time between the oral motion to continue at the **July 29, 2005** hearing and the new trial date of **October 25, 2005**, shall be fully excludable as provided by the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(F), (J), -(8)(A)-(B).

With regard to other scheduling, the Court reset the suppression hearing for **September 1, 2005, at 1:30 p.m.** If the defendant wishes to supplement his brief on his suppression motion in light of the April 25, 2005 oral amendment to the motion, the defendant should file any supplemental brief sufficiently in advance of the suppression hearing to allow the government time to respond, if it chooses, and to allow the Court time to prepare for the hearing. The parties are to appear before the undersigned for a pretrial conference on **October 17, 2005, at 9:30 a.m.**

Accordingly, it is **ORDERED**:

- (1) The parties' joint, oral motion to continue the trial is **GRANTED**;

- (2) The trial is reset to commence at **9:00 a.m., on October 25, 2005**, before the Honorable Thomas W. Phillips, United States District Judge;
- (3) All time between the **July 29, 2005** hearing and the new trial date of **October 25, 2005**, is fully excludable time under the Speedy Trial Act for the reasons set forth above;
- (4) The suppression hearing is reset to **September 1, 2005, at 1:30 p.m.**; and
- (5) The pretrial conference is scheduled for **October 17, 2005, at 9:30 a.m.**

**IT IS SO ORDERED.**

ENTER:

s/ H. Bruce Guyton  
United States Magistrate Judge